

P/SUPT. FELIXBERTO CASTILLO, POLICE OFFICERS ROMEO BAGTAS, RUPERTO BORLONGAN, EDMUNDO DIONISIO, RONNIE MORALES, ARNOLD TRIA, AND GILBERTO PUNZALAN, ENGR. RICASOL P. MILLAN, ENGR...

G.R. No. 182165. November 25, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Petitioners[1], employees and members of the local police force of the City Government of Malolos, challenge the March 28, 2008 Decision of the Regional Trial Court (RTC) of Malolos, Branch 10 in a petition for issuance of writs of amparo and habeas data instituted by respondents.

The factual antecedents.

Respondent Amanda Cruz (Amanda) who, along with her husband Francisco G. Cruz (Spouses Cruz), leased a parcel of land situated at Barrio Guinhawa, Malolos (the property), refused to vacate the property, despite demands by the lessor Provincial Government of Bulacan (the Province) which intended to utilize it for local projects.

The Province thus filed a complaint for unlawful detainer against the Spouses Cruz before the then Municipal Trial Court (MTC) of Bulacan, Bulacan.

By Decision of September 5, 1997, the MTC rendered judgment against the Spouses Cruz, which judgment, following its affirmance by the RTC, became final and executory.

The finality of the decision in the ejectment case notwithstanding, the spouses Cruz refused to vacate the property. They thereupon filed cases against the Province[2] and the judges who presided over the case.[3] Those cases were dismissed except their petition for annulment of judgment lodged before Branch 18 of the RTC of Malolos, and a civil case for injunction 833-M-2004 lodged before Branch 10 of the same RTC Malolos.

The Spouses Cruz sought in the case for injunction the issuance of a permanent writ of injunction to prevent the execution of the final and executory judgment against them.

By Order of July 19, 2005, the RTC, finding merit in the Spouses Cruzes' allegation that subsequent events changed the situation of the parties to justify a suspension of the execution of the final and executory judgment, issued a permanent writ of injunction, the dispositive portion of which reads:

WHEREFORE, the foregoing petitioners' Motion for Reconsideration of the Order dated August 10, 2004 is hereby GRANTED. Order dated August 10, 2004 is hereby RECONSIDERED and SET ASIDE. Further, the verified petition dated November 05, 2002 are hereby REINSTATED and MADE PERMANENT until the MTC-Bulacan, Bulacan finally resolves the pending motions of petitioners with the same determines the metes and bounds of 400 sq. meters leased premises subject matter of this case with immediate dispatch.

Accordingly, REMAND the determination of the issues raised by the petitioners on the issued writ of demolition to the MTC of Bulacan, Bulacan.

SO ORDERED.[4] (Emphasis in the original; underscoring supplied)

Finding that the fallo of the RTC July 19, 2005 Order treats, as a suspensive condition for the lifting of the permanent injunction, the determination of the boundaries of the property, the Province returned the issue for the consideration of the MTC. In a Geodetic Engineer's Report submitted to the MTC on August 31, 2007, the metes and bounds of the property were indicated.

The MTC, by Order of January 2, 2008, approved the Report and ruled that the permanent injunction which the RTC issued is ineffective. On motion of the Province, the MTC, by Order of January 21, 2008, thus issued a Second Alias Writ of Demolition.

On receiving notice of the January 2, 2008 MTC Order, the Spouses Cruz filed a motion before Branch 10 of the RTC for the issuance of a temporary restraining order (TRO) which it set for hearing on January 25, 2008 on which date, however, the demolition had, earlier in the day, been implemented. Such notwithstanding, the RTC issued a TRO.[5] The Spouses Cruz, along with their sons-respondents Nixon and Ferdinand, thereupon entered the property, placed several container vans and purportedly represented themselves as owners of the property which was for lease.

On February 21, 2008, petitioners Police Superintendent Felixberto Castillo et al., who were deployed by the City Mayor in compliance with a memorandum issued by Governor Joselito R. Mendoza instructing him to "protect, secure and maintain the possession of the property," entered the property.

Amanda and her co-respondents refused to turn over the property, however. Insisting that the RTC July 19, 2005 Order of Permanent Injunction enjoined the Province from repossessing it, they shoved petitioners, forcing the latter to arrest them and cause their indictment for direct assault, trespassing and other forms of light threats.

Respondents later filed on March 3, 2008 a "Respectful Motion-Petition for Writ of Amparo and Habeas Data," docketed as Special Civil Action No. 53-M-2008, which was coincidentally raffled to Branch 10 of the RTC Malolos.

Respondents averred that despite the Permanent Injunction, petitioners unlawfully entered the property with the use of heavy equipment, tore down the barbed wire fences and tents,[6] and arrested them when they resisted petitioners' entry; and that as early as in the evening of February 20, 2008, members of the Philippine National Police had already camped in front of the property.

On the basis of respondents' allegations in their petition and the supporting affidavits, the RTC, by Order of March 4, 2008, issued writs of amparo and habeas data.[7]

The RTC, crediting respondents' version in this wise:

Petitioners have shown by preponderant evidence that the facts and circumstances of the alleged offenses examined into on Writs of Amparo and Habeas Data that there have been an on-going hearings on the verified Petition for Contempt, docketed as Special Proceedings No. 306-M-2006, before this Court for alleged violation by the respondents of the Preliminary Injunction Order dated July 16, 2005 [sic] in Sp. Civil Action No. 833-M-2002, hearings were held on January 25, 2008, February 12 and 19, 2008, where the respondents prayed for an April 22, 2008 continuance, however, in the pitch darkness of February 20, 2008, police officers, some personnel from the Engineering department, and some civilians proceeded purposely to the Pinoy Compound, converged therein and with continuing threats of bodily harm and danger and stone-throwing of the roofs of the homes thereat from voices around its premises, on a pretext of an ordinary police operation

when interviewed [sic] by the media then present, but at 8:00 a.m. to late in the afternoon of February 21, 2008, zoomed in on the petitioners, subjecting them to bodily harm, mental torture, degradation, and the debasement of a human being, reminiscent of the martial law police brutality, sending chill in any ordinary citizen,[8]

rendered judgment, by Decision of March 28, 2008, in favor of respondents, disposing as follows:

"WHEREFORE, premises considered, the Commitment Orders and waivers in Crim. Cases Nos. 08-77 for Direct assault; Crim. Case No. 08-77 for Other Forms of Trespass; and Crim. Case No. 08-78 for Light Threats are hereby DECLARED illegal, null and void, as petitioners were deprived of their substantial rights, induced by duress or a well-founded fear of personal violence. Accordingly, the commitment orders and waivers are hereby SET ASIDE. The temporary release of the petitioners is declared ABSOLUTE.

Without any pronouncement as to costs.

SO ORDERED."[9] (Emphasis in the original; underscoring supplied)

Hence, the present petition for review on certiorari, pursuant to Section 19[10] of The Rule on the Writ of Amparo (A.M. No. 07-9-12-SC),[11] which is essentially reproduced in the Rule on the Writ of Habeas Data (A.M. No. 08-1-16-SC).[12]

In the main, petitioners fault the RTC for

... giving due course and issuing writs of amparo and habeas data when from the allegations of the petition, the same ought not to have been issued as (1) the petition in [sic] insufficient in substance as the same involves property rights; and (2) criminal cases had already been filed and pending with the Municipal Trial Court in Cities, Branch 1, City of Malolos. (Underscoring supplied)

The petition is impressed with merit.

The Court is, under the Constitution, empowered to promulgate rules for the protection and enforcement of constitutional rights.[13] In view of the heightening prevalence of extrajudicial killings and enforced disappearances, the Rule on the Writ of Amparo was issued and took effect on October 24, 2007 which coincided with the celebration of United Nations Day and affirmed the Court's commitment towards internationalization of human rights. More than three months later or on February 2, 2008, the Rule on the Writ of Habeas Data was promulgated.

Section 1 of the Rule on the Writ of Amparo provides:

Section 1. Petition. - The petition for a writ of amparo is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. The writ shall cover extralegal killings and enforced disappearances or threats thereof. (Emphasis and underscoring supplied)

Section 1 of the Rule on the Writ of Habeas Data provides:

Section 1. Habeas Data. - The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party. (Emphasis and underscoring supplied)

From the above-quoted provisions, the coverage of the writs is limited to the protection of rights to life, liberty and security. And the writs cover not only actual but also threats of unlawful acts or omissions.

Secretary of National Defense v. Manalo[14] teaches:

As the Amparo Rule was intended to address the intractable problem of "extralegal killings" and "enforced disappearances," its coverage, in its present form, is confined to these two instances or to threats thereof. "Extralegal killings" are "killings committed without due process of law, i.e., without legal safeguards or judicial proceedings." On the other hand, "enforced disappearances" are "attended by the following characteristics: an arrest, detention or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside the protection of law.[15] (Underscoring supplied, citations omitted)

To thus be covered by the privilege of the writs, respondents must meet the threshold requirement that their right to life, liberty and security is violated or threatened with an unlawful act or omission. Evidently, the present controversy arose out of a property dispute between the Provincial Government and respondents. Absent any considerable nexus between the acts complained of and its effect on respondents' right to life, liberty and security, the Court will not delve on the propriety of petitioners' entry into the property.

Apropos is the Court's ruling in Tapuz v. Del Rosario:[16]

To start off with the basics, the writ of amparo was originally conceived as a response to the extraordinary rise in the number of killings and enforced disappearances, and to the perceived lack of available and effective remedies to address these extraordinary concerns. It is intended to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules. What it is not, is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds. Consequently, the Rule on the Writ of Amparo - in line with the extraordinary character of the writ and the reasonable certainty that its issuance demands - requires that every petition for the issuance of the writ must be supported by justifying allegations of fact, to wit:

x x x x

The writ shall issue if the Court is preliminarily satisfied with the prima facie existence of the ultimate facts determinable from the supporting affidavits that detail the circumstances of how and to what extent a threat to or violation of the rights to life, liberty and security of the aggrieved party was or is being committed.[17] (Emphasis and italics in the original, citation omitted)

Tapuz also arose out of a property dispute, albeit between private individuals, with the petitioners therein branding as "acts of terrorism" the therein respondents' alleged entry into the disputed land with armed men in tow. The Court therein held:

On the whole, what is clear from these statements - both sworn and unsworn - is the overriding involvement of property issues as the petition traces its roots to questions of physical possession of the property disputed by the private parties. If at all, issues relating to the right to life or to liberty can hardly be discerned except to the extent that the occurrence of past violence has been alleged. The right to security, on the other hand, is alleged only to the extent of the treats and harassments implied from the presence of "armed men bare to the waist" and the alleged pointing and firing of weapons. Notably, none of the supporting affidavits compellingly show that the threat to the rights to life, liberty and security of the petitioners is imminent or continuing. [18] (Emphasis in the original; underscoring supplied)

It bears emphasis that respondents' petition did not show any actual violation, imminent or continuing threat to their life, liberty and security. Bare allegations that petitioners "in unison, conspiracy and in contempt of court, there and then willfully, forcibly and feloniously with the use of force and intimidation entered and forcibly,

physically manhandled the petitioners (respondents) and arrested the herein petitioners (respondents)"[19] will not suffice to prove entitlement to the remedy of the writ of amparo. No undue confinement or detention was present. In fact, respondents were even able to post bail for the offenses a day after their arrest.[20]

Although respondents' release from confinement does not necessarily hinder supplication for the writ of amparo, absent any evidence or even an allegation in the petition that there is undue and continuing restraint on their liberty, and/or that there exists threat or intimidation that destroys the efficacy of their right to be secure in their persons, the issuance of the writ cannot be justified.

That respondents are merely seeking the protection of their property rights is gathered from their Joint Affidavit, viz:

x x x x

11. Kami ay humarang at humiga sa harap ng mga heavy equipment na hawak hawak ang nasabing kautusan ng RTC Branch 10 (PERMANENT INJUNCTION at RTC ORDERS DATED February 12, 17 at 19 2008) upang ipaglaban ang dignidad ng kautusan ng korte, ipaglaban ang prinsipyo ng "SELF-HELP" at batas ukol sa "PROPERTY RIGHTS", Wala kaming nagawa ipagtanggol ang aming karapatan sa lupa na 45 years naming "IN POSSESSION." (Underscoring supplied)

Oddly, respondents also seek the issuance of a writ of habeas data when it is not even alleged that petitioners are gathering, collecting or storing data or information regarding their person, family, home and correspondence.

As for respondents' assertion of past incidents[21] wherein the Province allegedly violated the Permanent Injunction order, these incidents were already raised in the injunction proceedings on account of which respondents filed a case for criminal contempt against petitioners.[22]

Before the filing of the petition for writs of amparo and habeas data, or on February 22, 2008, petitioners even instituted a petition for habeas corpus which was considered moot and academic by Branch 14 of the Malolos RTC and was accordingly denied by Order of April 8, 2008.

More. Respondent Amanda and one of her sons, Francisco Jr., likewise filed a petition for writs of amparo and habeas data before the Sandiganbayan, they alleging the commission of continuing threats by petitioners after the issuance of the writs by the RTC, which petition was dismissed for insufficiency and forum shopping.

It thus appears that respondents are not without recourse and have in fact taken full advantage of the legal system with the filing of civil, criminal and administrative charges.[23]

It need not be underlined that respondents' petitions for writs of amparo and habeas data are extraordinary remedies which cannot be used as tools to stall the execution of a final and executory decision in a property dispute.

At all events, respondents' filing of the petitions for writs of amparo and habeas data should have been barred, for criminal proceedings against them had commenced after they were arrested in flagrante delicto and proceeded against in accordance with Section 6, Rule 112[24] of the Rules of Court. Validity of the arrest or the proceedings conducted thereafter is a defense that may be set up by respondents during trial and not before a petition for writs of amparo and habeas data. The reliefs afforded by the writs may, however, be made available to the aggrieved party by motion in the criminal proceedings.[25]

WHEREFORE, the petition is GRANTED. The challenged March 4, 2008 Order of Branch 10 of the Regional Trial Court of Malolos is DECLARED NULL AND VOID, and its March 28, 2008 Decision is REVERSED and SET ASIDE. Special Civil Action No. 53-M-2008 is DISMISSED.

SO ORDERED.

Puno, C.J., Carpio, Chico-Nazario, Nachura, Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, and Villarama, JJ., concur.

Corona, Velasco, Jr., and Peralta, JJ., on official leave.

[1] P/Supt. Felixberto Castillo (Chief of Police), SPO1 Romeo Bagtas, SPO3 Ruperto Borlongan, PO Edmundo Dionisio, PO Ronnie Morales, PO Arnold Tria and PO Gilberto Punzalan (police officers), Engineer Ricasol Millan (Chief, City Engineer's Office) Engineer Redentor S. dela Cruz (City Engineer's Office), Anastacio Borlongan (City Administrator), Artemio Esguerra and Rolando "Tisoy" Cruz.

[2] Petition for Annulment of Judgment with prayer for Writ of Preliminary Injunction before RTC-Malolos; Petition for Certiorari before the Court of Appeals, questioning the denial of Spouses Cruzes' motion for inhibition against the Presiding Judge of Branch 18, RTC-Malolos; Complaint for Damages before RTC-Quezon City, Civil Case for Injunction before RTC-Malolos.

[3] Criminal Complaint against Presiding Judge of Branch 18 RTC-Malolos, dismissed by Resolution of May 3, 2004; Administrative Complaint docketed as A.M. No. CA-04-38 against Court of Appeals Justice Portia A. Hormachuelos, RTC Judges Victoria C. Fernandez-Bernardo, Renato C. Francisco, Manuel DJ Siayngco, Caesar A. Casanova and MTC Judge Ester R. Chua-Yu. The complaint was dismissed by Resolution of March 31, 2004. Cruz was found guilty of contempt of court and consequently fined in the amount of P20,000.00.

[4] Rollo, p. 171.

[5] Id. at 151-153.

[6] Id. at 173, "Sama-Samang Sinumpaang Salaysay."

[7] Id. at 178-180.

[8] Id. at 127-128.

[9] Id. at 131.

[10] Sec. 19. Appeal. - Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of facts or law or both. The period of appeal shall be five (5) working days from the date of notice of the adverse judgment. The appeal shall be given the same priority as habeas corpus cases.

[11] Took effect on October 24, 2007.

[12] Took effect on February 2, 2008.

[13] Article VIII, Section 5 (5).

[14] G.R. No. 180906, October 7, 2008, 568 SCRA 1.

[15] Id. at 38 - 39.

[16] G.R. No. 182484, June 17, 2008, 554 SCRA 768.

[17] Id. at 784-785.

[18] Id. at 786.

[19] Rollo, p. 94.

[20] Ibid.

[21] Id. at 95.

[22] Docketed as Sp. Civil Action No. 306-M-2006, id. at 409-411.

[23] Vide Notes 2 and 3.

[24] When a person is lawfully arrested without a warrant involving an offense, which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing Rules. In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person. x x x

[25] Section 22. Effect of Filing of a Criminal Action. - When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be made available by motion in the criminal case. x x x (The same section is reproduced in the Rules on the Writ of Habeas Data, also at Section 22).

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